(3)

(1)

माननीय छत्तीसगढ़ उच्च न्यायालय, बिलासपुर (छ. ग.)

(सिविल रिविजन 49 /2005)

SINGLE BENCH

आवेदक

अनावेदक क्रमांक-3,

.... नेशनल इंश्योरेंस कम्पनी लिमिटेड
द्वारा शाखा प्रबंधक
कार्यालय बी-1, ताहा काम्पलेक्स
रिंग रोड, नम्बर-2, प्रियदर्शनी
नगर, व्यापार विहार रोड,
बिलासपुर (छ. ग.)

P.R. No. 950/05
Presented by Shri Ahmad & Company
dated 06.07.05

विरुद्ध

अनावेदक

आवेदक ... 1- दुवास राम यादव
आत्मज गेन्दराम यादव
आयु 20 साल,
निवासी ठरकपुर तहसील सीपत
जिला बिलासपुर (छ. ग.)

अनावेदक 2- रामकुमार गेन्दराम आयु 32 साल,
निवासी ग्राम सीपत
तहसील सीपत
जिला बिलासपुर (छ. ग.)

3- श्रवण कुमार कौशिक आत्मज सहसराम
कौशिक आयु 30 साल,
निवासी ठरकपुर
तहसील सीपत जिला बिलासपुर

सिविल रिविजन अन्तर्गत धारा 115 व्यवहार प्रक्रिया संहिता

A.F/R.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(12)

आदेश पत्रक

मामला क्रमांक C.R.No.49/05 सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

13-6-2005

Mr. Shree Kumar Agarwal, Senior Advocate with Mr. Ali Asgar, counsel for the Applicant National Insurance Company Limited.

None for the respondents.

Heard on admission.

VIIIth Additional Motor Accidents Claims Tribunal, Bilaspur, vide award dated 28-2-2005, in Claim Case No.82/2004, awarded compensation of Rs.3,000/- to the claimant Duwas Ram Yadav against the applicant National Insurance Company Limited and others, and being aggrieved by that award, this revision has been preferred by the applicant.

The applicant contended that, vide impugned award, the Claims Tribunal allowed compensation less than Rs.10,000/- and appeal under the Motor Vehicles Act, 1988 is barred, therefore, they have preferred this revision under Section 115 of the Code of Civil Procedure, 1908 against the award. The relative part of Section 115(1) of the Code of Civil Procedure, 1908 reads as below : -

> **115. Revision**. – (1) "The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears – xxx xxx xx"

(पीछे देखिये)

(13)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

C.R.No.49/05

मामला क्रमांक ——2—— सन् 200

.....विरुद्ध.....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Subordination of Courts has been defined under Section 3 of the Code of Civil Procedure, 1908, which reads as below : -

> **3. Subordination of Courts**. – "For the purposes of this Code, the District Court is subordinate to the High Court, and every Civil Court of a grade inferior to that of a District Court and every Court of Small Causes is subordinate to the High Court and District Court."

Bare reading of both the above provisions unveils that, the High Court can exercise revisional jurisdiction under Section 115 of the Code of Civil Procedure, 1908 only when the order under challenge has been passed by Civil Court or Court of Small Causes.

Claims Tribunals have been constituted by the State Government exercising powers conferred on them under Section 165 of the Motor Vehicles Act, 1988. Chapter XII of the Motor Vehicles Act, 1988 also describes the procedure to be followed by the Claims Tribunals and also provides the provisions for appeal against the award passed by Claims Tribunals. Neither the Claims Tribunals have been declared Civil Courts under any of the provisions of the Motor Vehicles Act, 1988 nor the said Act empowers the High Court to exercise jurisdiction under Section

(पीछे देखिये)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

C.R. No. 49/05

मामला क्रमांक ...—3—... **सन्** **200**

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

115 of the Code of Civil Procedure, 1908 against the award passed by any of the Motor Accidents Claims Tribunals. Even the State Government, empowered to make rules, although have framed rules, did not make Section 115 of the Code of Civil Procedure, 1908 applicable to any award passed by a Claims Tribunal, and only provisions of the Code of Civil Procedure, 1908, applicable to Motor Accidents Claims Tribunals, have been described in Rule 240 of the M.P. Motor Vehicles Rules, 1994. Rule 240 of the said Rules reads as below : -

> **240. Procedure to be followed by Claims Tribunal in holding enquiries**. – "Applications of certain provisions of Code of Civil Procedure, 1908; Save as otherwise expressly provided in the Act or these rules, the following provisions of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908) namely, those contained in Order V, Rules 9 to 13 and 15 to 20, Order IX, Order XVIII, Rules 3 to 10, Order XVI, Rules 2 to 21, Order XVII, Order XXI and Order XXIII, Rules 1 to 3 shall apply to proceedings before a Claims Tribunal in so far as they may be applicable thereto."

Appeal against award below Rs.10,000/- passed by a Motor Accidents Claims Tribunal is barred, but under the Motor Vehicles Act, 1988 or Rules, 1994 framed thereunder, neither power of revision against such award has been conferred on High Court nor the said provision has been made applicable to claim

(पीछे देखिये)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

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मामला क्रमांक ..... **सन् 200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

cases. Motor Accidents Claims Tribunals have been established under specific provisions of the Motor Vehicles Act, 1988 and the said Tribunals have not been declared as Courts subordinate to the High Court for the purposes of Section 115 of the Code of Civil Procedure, 1908, and according to Section 3 of the Code of Civil Procedure, 1908, the said Tribunals do not come within the edifice of Courts for the purposes of the Code of Civil Procedure, 1908.

From the aforesaid discussions, it is held that, the Motor Accidents Claims Tribunals are not Courts subordinate to the High Court for the purposes of Section 115 of the Code of Civil Procedure, 1908, therefore, the impugned award, passed by the Tribunal, though not appealable, will not be amenable to the revisional jurisdiction under Section 115 of the Code of Civil Procedure, 1908.

Accordingly, the revision is not tenable, hence it is dismissed *in limine*. The applicant, if advised, may take appropriate remedy available under the law.

Sd/-
V.K.Shrivastava
Judge

G.Singh

(पीछे देखिये)